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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,954	02/12/2004	Anil K. Chauhan	60020200-0009	7080

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EXAMINER

CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,954

Applicant(s)

CHAUHAN, ANIL K.

Examiner

Jacob Cheu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The inventions are distinct, each from the other because of the following reasons:

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4, drawn to an immune response altering composition, classified in class 436, subclass 507.
 - II. Claims 5-8, drawn to a method of altering the immune response of a non-human vertebrate, classified in class 436, subclass 536.
 - III. Claims 9-11, 14-16, drawn to a process for removal of immune complexes from the plasma of a non-human vertebrate, classified in class 435, subclass 2.
 - IV. Claims 12-13, drawn to a process for the creation of a database, classified in class 707, subclass 104.1.
 - V. Claim 17, drawn to a diagnostic kit, classified in class 422, subclass 119.
 - VI. Claim 18-20, drawn to a method for diagnosing at least one disease in a non-human vertebrate, classified in class 435, subclass 7.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II-IV, VI are related as product and process for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the product as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). The product recited in invention I can be practiced by another materially different process other than the purposes recited in inventions II-IV and VI, such as identification standard purpose.

Similarly, inventions V and II-IV, VI are related as product and process for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the product as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). The product recited in

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invention V can be practiced for another materially different process other than the purposes recited in inventions II-IV, VI, such as identification and purification.

Inventions I and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the feature of altering the immune response of a non-human, vertebrate patient in invention I, is not required by the claims of other invention. The feature of having at least one disease specific reagent in invention V, is not required by the claims of other invention. Therefore, it is proper that inventions II-IV and VI are unrelated.

Inventions II-IV and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the feature of administering to the non-human vertebrate patients with a therapeutically effective amount of a composition comprising purified immune complexes for altering immune response in invention II, is not required by the claims of other group. The feature of placing receptors and receptor complex fractions on a suitable support and contacting said active receptor and receptor complex with plasma for the removal of immune complexes from the plasma of a non-human vertebrate in invention III, is not required by the claims of other group. The feature of loading and storing analytical information regarding purified immune complexes associated with one or more specific disease in invention IV, is not required by the claims of other group. The feature of contacting bound immune complexes with at least one disease specific reagent adapted to react with said immune complexes thereby indicating the presence of immune complexes associated with one specific disease in invention VI, is not required by the claims of other group. Each invention has different modes of operation, functions or different effects (MPEP § 806.04, MPEP § 808.01). Therefore, it is proper that inventions II-IV and VI are unrelated.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the search required for one group is not

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required for the other; and the search for one group is not required for another group, therefore restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Cheu whose telephone number is 571-272-0814. The examiner can normally be reached on 9:00-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Examiner Jacob Cheu

October 28, 2005



LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

10/28/05